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Remarks

Claims 1-16 are pending.

Claim 1 has been amended to require that the biscuit swirl, when baked, has a baked specific volume of at least about 2.2. Antecedent basis for this amendment is located throughout the specification, where an increase in size and achievement of a desired BSV is recognized to be both difficult to achieve in a freezer to oven product, and surprisingly achieved by the present invention. See specifically achievement of the indicated BSV at page 14, lines 1-4 and the plurality of higher BSV biscuit swirl products as reported in table 16, page 20 of the specification. It is respectfully submitted that one can immediately discern this limitation from the specification, and that this amendment is fully supported by the present specification. See Waldemar Link GmbH & Co. v. Osteonics Corp., 32 F.3d 556, 558, 31 UPSQ2d 1855, 1857 (Fed. Cir. 1994).

Claims 1-16 have been rejected as unpatentable under 35 U.S.C. §103 over Kuechle et al. in view of Hahn et al.

The presently claimed invention provides a particular frozen unproofed, unbaked luxuriant roll (i.e., a "biscuit swirl" as recited in independent claim 1) that is capable of being baked without an intermediate thawing or proofing step. A unique requirement of this invention is that a luxuriant roll is provided using a biscuit dough (e.g., a "biscuit swirl"). Luxuriant rolls, such as breakfast rolls having cinnamon or orange flavor or using a savory gravy, are traditionally prepared from doughs that provide a bread-like product rather than a biscuit-like product. Surprisingly, the freezer-to-oven biscuit swirl product prepared from a non-laminated biscuit dough exhibits a significantly higher BSV as compared to like products prepared from a fully developed non-laminated dough. One of ordinary skill would have had no expectation of this significant difference in BSV properties in dough selection in view of the prior art of record.

Kuechle et al. describes a special format of an underdeveloped dough, which is provided in a frozen format in a container that is then thawed to provide a dough that is "scoopable" at refrigeration temperatures. As stated in the Kuechle specification at column 2, lines 39-49: "The term 'scoopable' refers to a dough having a consistency

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between that of a cookie dough and a batter.” This format of scoopable dough is designed to be stored in a can, a bucket, a pail, a pouch, a sleeve, and the like. See column 10, lines 46-47. The dough as described therein is easy to use in preparation of certain food embodiments, because after thawing the dough can be scooped from the bucket in an amount suitable for baking and deposited onto an item suitable for baking the dough. The products contemplated for preparation in this manner are listed at column 3, lines 37-44 as

for example, cut biscuits, drop biscuits, dumplings, flat bread, crackers, pizza dough, doughnuts, fritters, hushpuppies, muffins, pastry crusts, coffee cake, quick bread, scones, cobbler-type crust, and the like. Preferably a baked product prepared by a scoopable dough of the invention includes drop biscuits, dumplings, and scones.

The Kuechle disclosure does not contemplate the use of underdeveloped dough in a frozen, unbaked biscuit swirl configuration. Instead, Kuechle contemplates thawing out the dough disclosed therein to a refrigerated state prior to depositing the dough on the appropriate baking pan for baking.

Hahn et al., relates to non-emulsion based, moisture containing fillings that can reduce or eliminate moisture migration between the filling and a dough that is in contact with the filling (See Hahn et al. at the Abstract). The Hahn et al. reference discloses that its fillings can be used with conventional dough compositions in conventional ways (See Hahn et al. at col. 12, lines 46-65). The Hahn et al. reference does not teach or even remotely suggest that a luxuriant roll can be made with a biscuit dough. In particular, the Hahn et al. reference does not teach or suggest a “biscuit swirl” as required in claim 1.

It is respectfully submitted that the combination of these references does not teach or suggest a frozen unproofed, unbaked biscuit swirl capable of being baked without an intermediate thawing or proofing step comprising a nonlaminated biscuit dough and a smear layer in the swirl configuration as claimed, and particularly wherein the biscuit swirl, when baked, has a baked specific volume of at least about 2.2.

Additionally, one of ordinary skill could not have predicted that by selection of the dough of the present product as a biscuit dough, one obtains a frozen unproofed, unbaked biscuit swirl that when baked without an intermediate

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thawing or proofing step exhibits such surprising BSV levels. As noted in the above-referenced interview, this unexpected result was demonstrated in a declaration filed under 37 C.F.R. §1.132 by Inventor Leola Henry on September 16, 2004 (executed copy filed on October 21, 2004) in the present application. This declaration sets forth experiments to measure relative BSVs of products using different doughs. These experiments demonstrate that the selection of the use of biscuit dough, as compared to a fully developed dough, is not a mere alternative and obvious choice, but rather results in surprising beneficial properties of high BSV in freezer-to-oven roll products as presently claimed. Surprisingly, the BSV of the freezer-to-oven roll product prepared from biscuit dough was significantly higher than the BSV of the freezer-to-oven roll product prepared from a fully developed laminated dough, and also was significantly higher than the BSV of the freezer-to-oven roll product prepared from a fully developed non-laminated dough. One of ordinary skill would have had no expectation of this significant difference in BSV properties in dough selection in view of the prior art of record. The BSV performance of the inventive biscuit swirl product has been added to the claim, as requested by the Examiner.

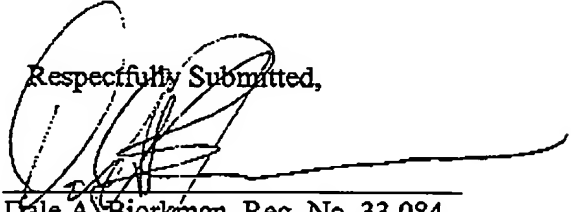
Conclusion

It is respectfully submitted that the claims as amended are in condition for allowance. Early favorable notice to that effect is earnestly solicited. In the event that a phone conference between the Examiner and the Applicants' undersigned attorney would help resolve any remaining issues in the application, the Examiner is invited to contact the attorney at (651) 275-9811.

Respectfully Submitted,

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